



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[Docket #: EPA-R10-OAR-2012-0017; FRL-9796-5]**

**Approval and Promulgation of Implementation Plans; Idaho: Sandpoint PM10  
Nonattainment Area Limited Maintenance Plan and Redesignation Request**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving in part and disapproving in part the Limited Maintenance Plan (LMP) submitted by the State of Idaho on December 14, 2011, for the Sandpoint nonattainment area (Sandpoint NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>), and approving the State's request to redesignate this area to attainment for the PM<sub>10</sub> National Ambient Air Quality Standards (NAAQS). The EPA is disapproving a separable part of the Sandpoint NAA LMP that does not meet LMP eligibility criteria or applicable requirements under the Clean Air Act (CAA). The part of the Sandpoint NAA LMP that the EPA is approving complies with applicable requirements and meets the requirements of the CAA for full approval. The EPA is also approving the State's redesignation request because it meets CAA requirements for redesignation.

**DATES:** This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The EPA has established a docket for this action under Docket Identification No. EPA-R10-OAR-2012-0017. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. The EPA requests that you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall at (206) 553-6357, [hall.kristin@epa.gov](mailto:hall.kristin@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA. Information is organized as follows:

### **Table of Contents**

- I. Background
- II. Final Action
- III. Statutory and Executive Order Reviews

### **I. Background**

On July 1, 1987, the EPA promulgated National Ambient Air Quality Standards (NAAQS) for particulate matter with a nominal aerodynamic diameter less than or equal to 10 micrometers (PM<sub>10</sub>) (52 FR 24634). The EPA established a 24-hour standard of 150 µg/m<sup>3</sup> and an annual standard of 50 µg/m<sup>3</sup>, expressed as an annual arithmetic mean. The EPA also promulgated secondary PM<sub>10</sub> standards that were identical to the primary standards. In a rulemaking action dated October 17, 2006, the EPA retained the 24-hour PM<sub>10</sub> standard but revoked the annual PM<sub>10</sub> standard (71 FR 61144, effective December 18, 2006).

On August 7, 1987, the EPA designated the Sandpoint area as a PM<sub>10</sub> nonattainment area due to measured violations of the 24-hour PM<sub>10</sub> standard (52 FR 29383). The notice announcing the designation upon enactment of the 1990 CAA Amendments was published on March 15, 1991 (56 FR 11101). On November 6, 1991, the Sandpoint nonattainment area (Sandpoint NAA) was subsequently classified as moderate under sections 107(d)(4)(B) and 188(a) of the CAA (56 FR 56694).

After the Sandpoint NAA was designated nonattainment for PM<sub>10</sub>, the State worked with the communities of Sandpoint, Kootenai, and Ponderay to develop a plan to bring the area into attainment no later than December 31, 1996. The State submitted the plan to the EPA on August 16, 1996, as a moderate PM<sub>10</sub> State Implementation Plan (SIP) under section 189(a) of the CAA. The moderate PM<sub>10</sub> SIP included a comprehensive residential wood combustion program, controls on fugitive road dust and emission limitations on industrial sources. The EPA took final action to approve the Sandpoint moderate PM<sub>10</sub> SIP on June 26, 2002 (67 FR 43006). Subsequently on June 22, 2010, the EPA determined that the Sandpoint NAA attained the PM<sub>10</sub> NAAQS (75 FR 35302).

On December 14, 2011, the State submitted to the EPA the Sandpoint PM<sub>10</sub> Limited Maintenance Plan (LMP) and requested that the EPA redesignate the Sandpoint NAA to attainment for the PM<sub>10</sub> NAAQS. The State also requested to revise control measures in the Sandpoint PM<sub>10</sub> SIP. On February 1, 2013, the EPA published a notice of proposed rulemaking (NPR) addressing the State's December 14, 2011 submittal (78 FR 7340). In the NPR, the EPA proposed to approve in part and disapprove in part the Sandpoint NAA LMP submitted by the State and to approve the State's request to redesignate this area to attainment for the PM<sub>10</sub> NAAQS. A detailed description of the proposed partial approval and partial disapproval can be found in the NPR. The EPA provided a 30-day review and comment period on the NPR, published on February 1, 2013 (78 FR 7340). The public comment period for the EPA's NPR closed on March 4, 2013. The EPA received no comments on the proposed action.

## **II. Final Action**

The EPA is approving in part and disapproving in part the Sandpoint NAA LMP submitted by the State on December 14, 2011, and approving the State's request to redesignate this area to attainment for the PM<sub>10</sub> NAAQS. The Sandpoint NAA LMP submittal included a request to approve revisions to the control measures included in the PM<sub>10</sub> attainment SIP for the Sandpoint NAA. The EPA is approving the revised Sandpoint City Ordinance 965 for control of residential burning because it strengthens the SIP. The EPA is also approving the State's request to remove the Louisiana-Pacific Corporation – Sandpoint operating permit control measure from the SIP because the facility has ceased operations and has been dismantled. However, the EPA is disapproving the State's request to remove the operating permits for two other sources because

these sources are still in operation and the State did not provide a demonstration that removal of the two permits would not interfere with attainment or maintenance of the NAAQS. In addition, the removal of controls that were relied on to demonstrate attainment would disqualify the Sandpoint NAA for LMP eligibility and require that the State submit a full maintenance plan. Because the State submitted the Sandpoint NAA LMP intending to qualify for the LMP option, and did not submit a full maintenance plan, the EPA is disapproving the separable portion of the submittal that is not consistent with the LMP qualifying criteria. This partial disapproval does not prevent the State from submitting a request for approval of a SIP revision demonstrating that the removal of the two operating permits does not interfere with attainment or maintenance of the NAAQS.

The EPA's partial disapproval will be simultaneously corrected because the EPA is, in this same action, fully approving the Sandpoint NAA LMP with all control measures in place. Therefore, a fully approved LMP is in place and no further submittal is required from the State to address the partial disapproval.

### **III. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
  - does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
  - does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this rule does not have tribal implications as specified by Executive Order

13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

## **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Particulate Matter, and Reporting and recordkeeping requirements.

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 18, 2013.

Dennis J. McLerran,  
Regional Administrator,  
Region 10.



40 CFR parts 52 and 81 are amended as follows:

**PART 52 – [AMENDED]**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

**Subpart N – Idaho**

2. Section 52.670 is amended by:

a. In paragraph (c) by removing the entry for “City of Sandpoint Ordinance No. 965” and adding in its place the following entry for “City of Sandpoint Chapter 8 Air Quality (4-8-1 through 4-8-14).”

b. In paragraph (d) by removing the entry for “Louisiana Pacific Corporation, Sandpoint, Idaho.”

c. In paragraph (e) by adding an entry to the end of the table.

The additions read as follows:

**§ 52.670 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-APPROVED IDAHO REGULATIONS AND STATUTES**

State citation	Title/subject	State effective date	EPA approval date	Explanations
* * * * *				
City and County Ordinances				

* * * * *				
City of Sandpoint Chapter 8 Air Quality (4-8-1 through 4-8-14).	Solid Fuel Heating Appliances.	09/21/11 (City adoption date).	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	Codified version of City of Sandpoint Ordinance No. 965 as amended by Ordinance No. 1237 and Ordinance No. 1258. Sandpoint PM10 Limited Maintenance Plan.
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(e) \* \*

### **EPA-Approved Idaho Nonregulatory Provisions and Quasi-Regulatory Measures**

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Comments
* * * * *				
Sandpoint PM10 Nonattainment Area Limited Maintenance Plan	Bonner County: Sandpoint Area	12/14/2011	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	

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### **PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

4. In § 81.313, the table entitled “Idaho-PM-10” is amended by revising the entry for “Bonner County: Sandpoint Area” to read as follows:

**§81.313 Idaho.**

\* \* \* \* \*

Idaho-PM-10

Designated area	Designation		Classification	
	Date	Type	Date	Type
*****				
Bonner County: Sandpoint Area: Section 1-3, 9-12, 15, 16, 21, 22, 27, 28 of range 2 west and Township 57 north; and the western <sup>3</sup> / <sub>4</sub> of Sections 14, 23 and 26 of the same Township and range coordinates.	<u>[Insert 60 days from date of publication in the Federal Register]</u>	Attainment		
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[FR Doc. 2013-07647 Filed 04/02/2013 at 8:45 am; Publication Date: 04/03/2013]